

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1260

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AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 35-38-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) **Except as provided in section 1.5 of this chapter**, after a verdict, finding, or plea of guilty, if a new trial is not granted, the court shall enter a judgment of conviction.

(b) When the court pronounces the sentence, the court shall advise the person that the person is sentenced for not less than the earliest release date and for not more than the maximum possible release date.

SECTION 2. IC 35-38-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) **A court may enter judgment of conviction as a Class D felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor within three (3) years if the person fulfills certain conditions. A court may enter a judgment of conviction as a Class D felony with the express provision that the conviction will be converted to a conviction as a Class A misdemeanor only if the person pleads guilty to a Class D felony that qualifies for consideration as a Class A misdemeanor under IC 35-50-2-7, and the following conditions are met:**

- (1) **The prosecuting attorney consents.**
- (2) **The person agrees to the conditions set by the court.**
- (b) **For a judgment of conviction to be entered under subsection**



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(a), the court, the prosecuting attorney, and the person must all agree to the conditions set by the court under subsection (a).

(c) The court is not required to convert a judgment of conviction entered as a Class D felony to a Class A misdemeanor if, after a hearing, the court finds:

- (1) the person has violated a condition set by the court under subsection (a); or
- (2) the period that the conditions set by the court under subsection (a) are in effect expires before the person successfully completes each condition.

However, the court may not convert a judgment of conviction entered as a Class D felony to a Class A misdemeanor if the person commits a new offense before the conditions set by the court under subsection (a) expire.

(d) The court shall enter judgment of conviction as a Class A misdemeanor if the person fulfills the conditions set by the court under subsection (a).

(e) The entry of a judgment of conviction under this section does not affect the application of any statute requiring the suspension of a person's driving privileges.

(f) This section may not be construed to diminish or alter the rights of a victim (as defined in IC 35-40-4-8) in a sentencing proceeding under this chapter.

SECTION 3. IC 35-50-2-7, AS AMENDED BY P.L.188-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) A person who commits a Class D felony shall be imprisoned for a fixed term of one and one-half (1 1/2) years, with not more than one and one-half (1 1/2) years added for aggravating circumstances or not more than one (1) year subtracted for mitigating circumstances. In addition, he may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), if a person has committed a Class D felony, the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly. However, the court shall enter a judgment of conviction of a Class D felony if:

- (1) the court finds that:
  - (A) the person has committed a prior, unrelated felony for which judgment was entered as a conviction of a Class A misdemeanor; and
  - (B) the prior felony was committed less than three (3) years before the second felony was committed;
- (2) the offense is domestic battery as a Class D felony under

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IC 35-42-2-1.3; or

(3) the offense is ~~auto theft (IC 35-43-4-2.5)~~; or **possession of child pornography (IC 35-42-4-4(c))**.

~~(4) the offense is receiving stolen auto parts (IC 35-43-4-2.5).~~

The court shall enter in the record, in detail, the reason for its action whenever it exercises the power to enter judgment of conviction of a Class A misdemeanor granted in this subsection.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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**HEA 1260 — Concur+**

